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8 Honorable Benjamin H. Settle
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15 UNITED STATES DISTRICT COURT
16 WESTERN DISTRICT OF WASHINGTON
17 AT TACOMA
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20 BRADLEY BOARDMAN, a Washington
21 Individual Provider; DEBORAH
22 THURBER, a Washington Family
23 Childcare Provider; SHANNON BENN, a
24 Washington Family Childcare Provider;
25 and FREEDOM FOUNDATION, a
Washington nonprofit organization,

Plaintiffs,

v.

GOVERNOR JAY INSLEE, Governor of
the State of Washington; PATRICIA
LASHWAY, Director of the Washington
Department of Social and Health Services
("DSHS"); and ROSS HUNTER, Director
of the Washington Department of Early
Learning ("DEL"),

Defendants,

And

CAMPAIGN TO PREVENT FRAUD
AND PROTECT SENIORS,

Intervenor-Defendant.

Case No. 3:17-cv-05255 BHS

INTERVENOR-DEFENDANT
CAMPAIGN'S JOINDER IN STATE
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT

NOTED ON MOTION CALENDAR:
AUGUST 10, 2018

ORAL ARGUMENT REQUESTED

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27 CAMPAIGN'S JOINDER IN STATE DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY
JUDGMENT - 1

Cause No. 3:17-cv-05255 BHS
20179 00001 hg298253mm.002

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STATEMENT OF JOINDER

Intervenor-Defendant Campaign to Prevent Fraud and Protect Seniors (“Campaign”) joins in the State Defendants’ Opposition to Plaintiffs’ Motion for Summary Judgment in its entirety. To avoid duplication and increase judicial efficiency, the Campaign will not repeat those arguments to the Court.

The Campaign wishes to make clear, however, that it disagrees with Plaintiffs' (collectively, "Freedom Foundation") one-sided mischaracterization of certain facts, history, and unrelated cases regarding the relationship between I-1501's union supporters and the Freedom Foundation. Given the acknowledged acrimonious relationship between unions and the Freedom Foundation, those union supporters likely could provide a counter story that describes the Freedom Foundation as bad actors as well. But as discussed in the Campaign's and State Defendants' Motions for Summary Judgment and the State Defendants' Opposition to Plaintiffs' Motion for Summary Judgment, the Freedom Foundation's rhetoric and allegations in this regard are not relevant to determining the constitutionality of I-1501, which is the only issue before this Court. I-1501's constitutionality is determined based on the law itself and the intent of the more than 2.2 million Washington voters who enacted the Initiative.

As relevant to this case, conspicuously absent from the Freedom Foundation's briefing is reference to the majority of the Campaign's communications to the general public that were made available to the Freedom Foundation in discovery. Those communications describe and emphasize I-1501's legitimate purpose of protecting against potential identity theft and fraud and contain no reference to the Freedom Foundation in any way. This is true of the Campaign's mailers and flyers that were distributed to the general public. *See Declaration of Beth Lindsay in*

CAMPAIGN'S JOINDER IN STATE DEFENDANTS'
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JUDGMENT - 2
Cause No. 3:17-cv-05255 BHS
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1 Support of the Campaign’s Joinder (“Lindsay Decl.”) ¶ 6, Ex. A (flyers and mailers to general
2 public describing I-1501’s goals related to preventing identity theft and fraud). And it also is
3 true of the Campaign’s Facebook advertisements and talking points that the Campaign widely
4 distributed to potential supporters, advocates, and spokespersons. *See* Lindsay Decl. ¶¶ 7,8, Exs.
5 B, C. These messages are entirely consistent with the text of I-1501, the measure’s ballot title,
6 and the Voters’ Guide, which are the only things that all voters had in front of them when
7 deciding whether to approve I-1501.

8
9 The Freedom Foundation ignores the Campaign’s general voter communications and
10 points to four documents that mention the Freedom Foundation.¹ Plaintiffs’ Motion for
11 Summary Judgment (“Pls.’ Mot. Summ. J.”) (Docket No. 50) at 9. But those documents never
12 were provided to the general public. Lindsay Decl. ¶ 12. The Campaign did not mail or
13 distribute them to voters. *Id.* Rather, the documents were provided to unions who then chose
14 whether or not to distribute them to their own internal membership lists. *Id.* The general public
15 never received them.

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17 Further, many other communications mentioning caregiver privacy that the Freedom
18 Foundation relies on were not Campaign documents or messages to voters at all. Rather, they
19 appear to be internal SEIU communications, sent by SEIU to SEIU caregivers. *See* Pls.’ Mot.
20 Summ. J. at 9-10, Declaration of Susan Stahlfeld in Support of Plaintiffs’ Motion for Summary
21 Judgment (“Stahlfeld Decl.”) (Docket No. 56) ¶¶ 8, 9, Exs. H, I (documents produced pursuant
22 to third-party subpoena and drafted by and targeted to SEIU-related individuals, not general
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26¹ While four separate pages are cited, two are near duplicates of the others.
27

1 public). Such internal communications are irrelevant to determining voter intent.²

2 Finally, the Freedom Foundation provides no evidence that I-1501's many endorsers
3 outside of SEIU supported the Initiative out of animus. I-1501's endorsers included, among
4 others, King County Sheriff John Urquhart, the Washington State Council of Firefighters, the
5 Washington State Democrats, the Spokane County Democrats, the King County Democrats, the
6 Snohomish County Democrats, the 47th Legislative District Democrats, the Statewide Poverty
7 Action Network, the Sky Valley Chronicle, the Washington Community Action Network, the
8 Washington State Senior Citizens' Lobby, and individual in-home childcare providers and in-
9 home caregivers for seniors and people with disabilities. Lindsay Decl. ¶ 9. The Freedom
10 Foundation ignores that these I-1501 supporters advocated for passage of the measure for
11 entirely legitimate purposes that have nothing to do with the Freedom Foundation. *See, e.g.*,
12 Lindsay Decl. ¶ 11, Ex. E (Statewide Poverty Action Network stating “[i]dentity theft and fraud
13 is a growing issue that affects everyone but some populations, like seniors, are especially
14 vulnerable,” and noting I-1501’s goal of addressing that issue).

17 As set forth in the Campaign’s and the State’s Motions for Summary Judgment and the
18 State’s Opposition Motion, Plaintiffs fail to allege, much less establish, that over 2.2 million
19 Washingtonians acted out of animus towards the Freedom Foundation when they chose to enact
20 I-1501. The Campaign respectfully requests that the Court deny Plaintiffs’ Motion for Summary
21 Judgment.

23

24 ² The Freedom Foundation also erroneously asserts that Fuse Votes “used government email to distribute a 2016
25 Voter’s Guide urging passage of I-1501.” Pls.’ Mot. Summ. J. at 10. Yet as the cited exhibit shows, nothing of the
26 sort took place. The email simply shows that Fuse Executive Director Aaron Ostrom sent a Fuse Votes message to
someone at DSHS, assumedly a person who had signed up for the Fuse Votes email list using their work email
address. Stahlfeld Decl. ¶ 6, Ex. F. The insinuation that Fuse inappropriately used government resources reflects
the loose interpretation of the facts that the Freedom Foundation takes in its briefing.

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DATED this 6th day of August, 2018.
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CAMPAIGN'S JOINDER IN STATE DEFENDANTS'
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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August, 2018, I electronically filed the foregoing document with the United States District Court ECF system, which will send notification of such filing to the following:

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Signed at Seattle, Washington this 6th day of August, 2018.

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CAMPAIGN'S JOINDER IN STATE DEFENDANTS'
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JUDGMENT - 6
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